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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 000615

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SUBJECT: IRAQ 201: WHERE IS THE GREEN LINE?

Classified By: Deputy Political Counselor John Fox; reasons 1.4(b) and (d)

(U) This is one in a series of messages intended to provide background for policy-makers on Iraq. It is a joint Embassy/MNF-I message.

¶1. (C) Summary: None of the many interpretations of a "Green Line" separating Kurdish-administered areas from the rest of Iraq has either support across ethnic lines or a conclusive legal basis. The term "Green Line" was first used to describe the "front-line trace" between Peshmerga and Iraqi Army positions following the 1991 Kurdish uprising against Saddam. Those positions generally followed the terrain, separating mountainous areas of Dohuk, Erbil, and Sulaymaniyah Provinces (including small portions of Ninewa, Kirkuk, Salah-ad-Din, and Diyala) from flat lands to the south-west. The Iraq constitution passed in 2005 recognizes the Kurdish Regional Government's authority as the official government of areas held by the Kurds on March 19 2003, implicitly delineated by what we now refer to as the Green Line. We have fairly detailed information on the locations of Iraqi Army units as of March 16 2003, but there is a dispute regarding the location of the Peshmerga, who claim to have been in control of territory to the rear of the IA positions. End summary.

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After the First Gulf War  
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¶2. (SBU) The first widespread use of the term "Green Line" referring to a line of separation between Kurdish and Arab-dominated areas of Iraq was in the aftermath of the 1991 Kurdish Uprising. It was based on the relatively stable front-line military positions (the "front-line trace") of Kurdish Peshmerga and Iraqi Army forces, and recognized de facto Kurdish control over a majority of the territory in what are now the governorates (provinces) of Dohuk, Erbil and Suleimaniyah, as well as small portions of territory in the governorates of Ninewa, Kirkuk and Diyala. The Green Line did not correspond to the northern no-fly zone patrolled by U.S., British, and French forces following the first Gulf War, which barred GOI aircraft in the airspace north of the 36th parallel. Instead, it ran generally north-west to south-east, separating more mountainous (and more easily defensible) terrain to the north from the flatter lands to the south. This first Green Line corresponded generally to the historical division between Semitic-language speakers in the plains and deserts of central Iraq, and Indo-European language speakers in the mountains to the north.

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The Post-2003 Transitional Period  
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¶3. (C) The Transitional Administrative Law (TAL) signed in

March 2004 by the Iraqi Governing Council provided the governing framework for Iraq until the ratification of the Iraqi Constitution in 2005. TAL Article 53(A) states that &the Kurdistan Regional Government is recognized as the official government of the territories that were administered by that government on 19 March 2003 in the governorates of Dohuk, Erbil, Suleimaniyah, Kirkuk, Diyala and Ninewa.8 TAL Article 53(A) did not more specifically define those territories, however. (Comment: It is not clear to us whether "administered by" was meant to refer simply to the presence of Kurdish Peshmerga and the absence of Iraqi Army troops, or whether Kurdish political authorities had to exercise the functions of government in those areas. The Qexercise the functions of government in those areas. The parties themselves do not generally debate these legal questions in any deatil. End comment.) While there is fairly accurate information available regarding the disposition of Iraqi Army units as late as March 16 2003, we know less about Peshmerga positions as of March 19 2003. Also, military positions were fluid throughout this period, with small numbers of Peshmerga infiltrating southward in anticipation of Coalition operations. It is possible that some areas in what are now the disputed territories had troops from both sides, while others had few or none from either side.

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The Constitutional Period and Article 140  
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¶4. (C) The Iraqi constitution approved by referendum 15 October 2005 superseded the TAL, with two exceptions. The constitution's Article 143 that annuls the TAL exempts TAL

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Article 53(A), recognizing KRG authority over certain areas of northern Iraq, and TAL Article 58, which sets out a process for remedying the forcible displacements of Kurds and others during Saddam's Arabization efforts. Moreover, Article 140 of the constitution explicitly commits the executive to fully implement all the provisions of TAL Article 58, although it includes some confusing language regarding a deadline for full implementation by December 31 ¶2007. (Note: Some Arab politicians claim that the meaning of the language in Article 140(2) is that the provisions of TAL Article 58 are null and void if full implementation is not achieved by the December 2007 deadline. Kurdish leaders strenuously disagree, noting that their support for the constitution was contingent on the incorporation of language addressing Arabization, and threaten that a constitution stripped of these provisions would not have the support of the KRG. End note.) There are numerous references to the Kurdistan region in the constitution, including Article 117, which confers recognition of the Kurdistan region and "its existing authorities," although the specific districts and sub-districts determined to have been "administered by" the KRG as of March 19, 2003 are never enumerated.

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Enter UNAMI  
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¶5. (C) As the December 2007 deadline approached with no sign the government would move to implement provisions of TAL Article 58, and in the absence of political consensus on the way forward, UNAMI offered to produce reports on each of the disputed territories to serve as a baseline of factual data and, officials of the United Nations Assistance Mission to Iraq (UNAMI) hoped, a starting point for political negotiations to resolve territorial disputes. While no Iraqi legal mechanism conferred this role on UNAMI, in August 2007 UN Security Council Resolution (UNSCR) 1770 provided UNAMI with a mandate to advise, support and assist, the Government of Iraq and the Council of Representatives on the development of processes to resolve disputed internal boundaries. To head the UN effort, the Secretary General

appointed Staffan de Mistura as his Special Representative. While UNAMI's efforts were not formally endorsed by either the GoI or the KRG, both sides acquiesced in them -- the Kurds to see whether the UN could facilitate a deal, many Arabs in the belief that repeated delays would eventually drain the energy required to make any territorial changes favoring the Kurds.

16. (C) The first round of UNAMI reports, in June 2008, was designed to build confidence. UNAMI officials thus picked four areas they thought were relatively non-controversial: Acre, Hamdaniya, and Makhmour Districts in Ninewa Province and Mandali, a sub-district of Balad Ruz in Diyala Province. Its findings suggested that Acre and Makhmour, homogeneous Kurdish areas long-administered by Kurdish authorities, should join the KRG, while multi-ethnic Hamdaniya should remain part of Ninewa. They suggested that Mandali, from which Kurds were substantially forcibly removed, should stay in Diyala. GOI officials and Sunni Arab political leaders studiously ignored the reports. Kurdish officials were publicly critical of the proposal, arguing that Acre and Makhmour were already widely accepted as Kurdish areas administered by the KRG and complaining that UNAMI had placed less weight on the most important criterion -- the desires of local residents. The Kurds refused to provide an official reaction to the first round of reports, saying they would wait to see the entire set of reports. UNAMI will release reports on all the disputed territories in northern Iraq in mid-April, including a menu of options to resolve Kirkuk Province, and will announce it is organizing a framework to guide discussions among Iraqis.

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